



Iowa Department of Human Services

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Director

INFORMATIONAL LETTER NO.1316

DATE: November 22, 2013

TO: Iowa Medicaid Home and Community-Based Services (HCBS) Waiver Providers, Individual Consumer Directed Attendant Care (CDAC) providers, Case Managers, Department of Human Services (DHS) Service Workers, Supervisors, Service Area Managers and Independent Support Brokers

ISSUED BY: Iowa Department of Human Services, Iowa Medicaid Enterprise (IME)

RE: Legal Representatives as Paid Employees

EFFECTIVE: January 1, 2014

Pursuant to the authority of Iowa Code section 249A, the Department of Human Services has proposed and adopted amendments to the Iowa Administrative Code (IAC) chapters 79 and 80. The amendments are part of program integrity rules designed to clarify the department's policies regarding sanctions against providers and add descriptions of actions that will cause sanctions to be imposed. The amendments also clarify when medical assistance (Medicaid) is incorrectly paid to families caring for family members. The effective date of the rules is January 1, 2014. The adopted rules in ARC 1155C may be reviewed at:

<http://www.dhs.state.ia.us/policyanalysis/RulesPages/RuleDocuments/RulesInProgress/1155C.pdf>.

With regards to the use of Medicaid funds to pay for services provided by a family member, the adopted amendment states:

79.9(7) Medical assistance funds are incorrectly paid whenever a person who provided the service to the member for which the department paid was at the time service was provided the parent of a minor child, spouse, or legal representative of the member.

A legal representative is any person, such as a guardian, conservator, attorney in fact, or any person with the ability to make legal decisions for or on behalf of the member. This amendment is designed to address the inherent conflict of interest that exists when a person providing services also has legal and programmatic responsibilities for directing and approving for payment the services for which they provide. Legal representatives will need to make the decision to either continue as a legal representative and not be a paid provider of services or find alternative legal representation for the member and continue as a service provider.

Implementation of this new rule will begin January 1, 2014. New member service plans that start on or after January 1, 2014, may not include a provider that is the member's parent (if

the member is a minor), spouse, or legal representative. Current member service plans that contain these entities may continue to be provided as authorized through the member's waiver year. Service plans that are renewed or updated on or after January 1, 2014, may not contain the entities. The department does acknowledge that there may be individual situations where the parent, spouse, or legal representative of the member may be the most appropriate provider of service based on the member's individual need and circumstance. In those situations, the member may request an exception to policy for the department to review.

Please submit any questions to HCBSwaivers@dhs.state.ia.us.